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MODUS TENENDI PARLIAMENTUM.

Great Britain — Record commission.

MODUS TENENDI PARLIAMENTUM;

AN

Ancient Treatise

ON THE

MODE OF HOLDING THE PARLIAMENT

IN

ENGLAND.

EDITED BY

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LANGDALE, *M.R.*

PREFACE.

THE Treatise known as the "MODUS TENENDI "PARLIAMENTUM" has been always familiar to those who have studied the law and constitution of the English Parliament, and much learning has been shown in considering its merits. Many discordant opinions have been expressed respecting its age and authenticity, but the arguments and vehement assertions of the two principal writers who have taken part in the discussion, Lord Chief Justice Coke and Prynne, are not, as must be evident to every impartial reader, entitled to much weight in this inquiry, chiefly because each has had his own theory to support, without possessing the materials necessary to form a sound judgment on the subject.

Lord Chief Justice Coke appears to have hastily formed an opinion in ignorance of the ancient constitution of Parliament, and without giving proper attention to the facts stated in the treatise, and a corrupt text was manifestly relied upon by Prynne. The reader, however, has now an accurate text collated with the oldest and best MSS.; and, as all the most striking variations have been noted in this edition, a juster estimate may be obtained as well of the period when the writer of the treatise lived, as of the degree of authority to which, as an historian, he is entitled.

Attention was particularly directed to this document as early as the reign of Queen Elizabeth by Sir Edward Coke, when Speaker of the House of Commons (1), afterwards in the preface to his ninth book of Reports (2), again in his first and second Institutes (3) where he alludes to it as an authentic work; and in his fourth Institute (4), when treating of the history and jurisdiction of the high court of Parliament, he states it to be his deliberate opinion that "this Modus was re-"hearsed and declared before the Conqueror "at the time of his conquest, and by him "approved for England.

In making this statement Coke not only too hastily expressed an opinion of the antiquity of the treatise, but he has not correctly represented what the author of it has actually declared. The writer simply professes to describe, — *hic describitur modus*, — what he believed to have been the manner of holding Parliaments under the Saxon government. The relater may be credited or not, just as the facts are themselves within the range of probability, or a knowledge of them within the reach of inquiry. The value of the authority must be tested by the contents of the work, whereas Coke by his statement would imply that the treatise was itself read to the Conqueror and by him approved, an absurdity too great to require comment.

Selden appears to have been the next author of any eminence who has noticed the Modus; he states in his "Titles of Honour" (5) that "divers characters that remain in it show "plainly enough that it was written some ages "(at least) after the coming of the Normans, "of which I think no man doubts that hath "read it, and for my part I cannot yet believe "that it is ancienter than about the time of "King Edward the Third; divers copies I have

"seen of it, but never any that exceeded that "age."

Prynne, whose authority in Parliamentary history is highly esteemed, was the next author of any consideration who commented on the Modus; and he has in the strongest language, in several of his works (6), declared it to be spurious, and of no antiquity, stating on one occasion that it was compiled between the twenty-seventh and thirty-third years of the reign of king Henry the Sixth (7), and in another place that it was written after the thirty-first year of Henry the Eighth. (8)

Prynne's animadversions (9) on the Modus have been considered by almost every subsequent writer (10) as decisive against its authenticity and age; but it should be remembered that many of his objections are founded upon passages which can be clearly proved to be interpolations (11), and they are, therefore, to that extent at least, undeserving of any serious attention.

A cursory perusal of the treatise cannot fail to satisfy every unprejudiced reader that neither the account given of it by Coke nor that by Prynne can be relied upon; and that though its antiquity is not so great as it has

been represented by the one, yet it is by no means so modern as it is contended to be by the other. In impeaching its authority as a correct exposition of the mode of holding Parliaments during any stated period, Prynne has been betrayed into a misconception of the real character of the treatise; and he impairs the value of his objections to its authority in endeavouring to destroy its authenticity. It may be a genuine production, and yet be wholly valueless as an accurate statement of facts.

The proeme (if it be contemporary with other parts of the text, and no copy has been seen without it) (12) proves that it was written long after the reign of William the Conqueror, for it expressly states that such was the manner of holding Parliaments in that reign, and *also* in those of *his successors;* consequently this, at the best a gratuitous unsupported assertion of the writer (for the language clearly imports history or relation), would scarcely warrant Coke in the unqualified opinion he has expressed of its great antiquity; and, on the other hand, the fact of there being still extant two or three copies of it as early as the reign of Richard the Second, proves that Prynne was

equally incorrect in referring it to so modern a period as the reign of Henry the Sixth.

The Irish Modus, which differs but little from the English Treatise, and bears unequivocal signs of having been taken from it, was exemplified under the Great Seal of Ireland in the sixth year of the reign of King Henry the Fourth, a fact tending to prove that the English Modus cannot be more modern than that year; and it may be observed, that had it not been a well accredited treatise in that reign it would hardly have been solemnly authenticated by the Great Seal of Ireland. (13)

As both Coke and Prynne are thus shown to be wrong in the opinions they have advanced respecting the age of the treatise, the question which naturally suggests itself is, When was it written? This, however, does not so readily admit of a precise answer; and as there is hardly a prominent fact stated in the whole work sufficiently clear and determinate to lead to a correct conclusion, the utmost that can be done is to get at an approximation to its age by inference and induction.

It will be remembered that Selden, deservedly a great authority, states, "he had seen "divers copies of the Modus, but never any

"that exceeded the age of Edward the "Third," (14) and he has given copious extracts from the MS. he had consulted; again, Arthur Agard (15), a learned officer of the Exchequer and well versed in Paleography, transcribed a copy of it which he considered to have been written in the reign of Richard the Second. There is still among the Cotton MSS. (16) in the British Museum a copy written about the latter end of the reign of Richard the Second, and another in the Bibliotheque du Roy (17) at Paris which was unquestionably written in the fourteenth century, consequently before the accession to the Throne of King Henry the Fourth.

Each of these copies differs from the others in the arrangement of the sections and in many passages and phrases, and exhibits other evident marks of an earlier exemplar; from this circumstance alone it would be reasonable to infer that the treatise cannot be less ancient than the reign of King Edward the Third.

In several copies of the Modus still extant the clause "DE MILITIBUS" (p. 11.) ends with the words "*ultra unam marcam per diem*," in others the following words are added, "*et* "*NUNC per diem octo solidos videlicet pro quo-*

"*libet eorum quatuor solidos*," a circumstance which proves that those words were interpolated after the wages of each of the county members attending Parliament had been fixed at 4*s*. per diem. Now we know, from a source that admits of no dispute,—the records of the expenses of knights of the shire and burgesses for serving in Parliament,—that the wages of county members were not settled before the first of Edward the Third 1327 (18), consequently it must be inferred, whatever may be the date of the interpolation, that the text itself of the Modus was written before that year; and this inference receives support from the absence throughout the treatise of all mention of any higher grade of nobility than an earl, the first creation of a duke having been made by Edward the Third in the eleventh year of his reign. (19)

Another incidental fact may be mentioned as showing the age when the author of the Modus may be presumed to have lived. In the clause "De Baronibus Portuum" (p. 7.) it is stated that the barons of the Cinq Ports received 10*s*. per diem for their parliamentary attendance. This statement is one of Prynne's chief objections against its authenticity on the ground

that the sum of 10*s*. per diem was incredibly large (20), and greater than that paid to the knights of shires, or to the members of the city of London; and he relies mainly on the case of the citizens of London, because they were called Barones Londini, a similar title of dignity to the Barones Portuum, and he further says that "London being the chief *port* and maga-"zine of England, its members only received "2*s*. per diem, therefore it was not probable "that the barons of the Cinq Ports received "more than the barons of London," but he admits that if the members of the Cinq Ports received any thing it was probably as much as the members for London.

If Prynne's reasoning be correct, it will presently be seen that this passage in the Modus is rather a proof of its authenticity than of its spuriousness, and the inference to which it would lead is, that the treatise was written at a time when the payment for the services in Parliament of a baron of the Cinq Ports and of a baron of London averaged a higher price than was paid in later times when such payments became regular and more moderate. There is a document still in existence, the earliest on record, and one beyond all suspicion,

which proves that the members of the city of London did in the year 1296 (21) absolutely receive the identical sum of 10*s.* per diem each.

These facts would justify the inference that the Modus was written before the close of the reign of King Edward the Second, and in support of this hypothesis it may be mentioned that Sir James Tyrrell (22), an historian of great learning and research, expressed his opinion that the substance of it must have been much older than the time of Edward the Third. His words are, "for though I confess "the treatise appears to have been written "since the coming of the Normans, yet the "substance of it must have been much older "than the times of Edward the Third and "Richard the Second, or else certainly King "Henry the Fourth, or his chancellor for him, "would never have been at the trouble of "transmitting a copy of this said Modus into "Ireland under the Great Seal, which is "thought to encroach so much on the prero- "gative, had he not been very well informed "of the antiquity as well as the authority "thereof, and therefore it might very well be "written about the time of Henry the Third "from some ancient historians and records not

" now extant, though the copies we have of it " may be of no longer standing than the time " Mr. Selden mentions."

To adopt Tyrrell's opinion in part, it may be remarked, that as it is well known that between the forty-ninth year of the reign of King Henry the Third and the eighteenth of King Edward the First (23) there is no evidence to prove that the members of the House of Commons were present in Parliament (in fact the records which are extant imply the contrary), the treatise may have been written during the latter part of the reign of King Edward the First for the express purpose of showing the right of the commons to be represented in Parliament, the exercise of that right having been interrupted by civil contentions. In following up this hypothesis it will be observed that, according to the Modus, all earls and barons holding a certain quantity of land, amounting to an earldom or barony, ought, by virtue of such tenure, to be summoned to Parliament; and as it is beyond dispute that this principle was not adhered to at the accession of King Edward the Second to the throne (24), it may be inferred that some change had taken place in that respect, which it was one of the objects

which the writer of the treatise had in view to restore.

On this subject Selden (25) thus writes: "Doubtless some law did pass whereby it was "enacted that none should come to Parliament "under the name of tenants in capite, or the "names of barons, but such only as should "have several writs of summons directed to "them, in which number not only all those of "the ancient and greater barons were compre- "hended according to the charter of King John, "but also all others to whom writs of summons "should be afterwards likewise directed, which "was in substance *that no tenure in that alone "should any longer make a baron of the king- "dom, but now the writ of summons only might "make one.* In what year either that law "which we suppose made the first distinction "between the greater barons and these tenants "passed, or when the other was made which "we conceive here afterward utterly excluded "the tenants from their places which by the "Great Charter they had upon the general "summons in the county, appears not."

Camden (26), following an anonymous author, attributes the change *of excluding the right of tenure* to King Henry the Third after the

battle of Evesham; the author's words which Camden cites are these: "Henricus Tertius "post magnas perturbationes et enormes vex- "ationes inter ipsum Regem Simonem de Mon- "teforte et alios barones motas et susceptas "statuit et ordinavit, quod omnes illi comites "et barones regni Angliæ quibus ipse Rex "dignatus est brevia summonitionis dirigere "venirent ad Parliamentum suum et non alii "nisi forte dominus Rex alia illa brevia eis "dirigere voluisset."

The records which are now extant certainly corroborate the above statement. It has been successfully contended by some eminent writers that baronial tenure did not in the reign of Edward the First entitle a man to a summons to Parliament, and all documents at present known conclusively demonstrate that writs of summons were issued regardless of tenure, and entirely at the will of the Sovereign. (27)

Admitting that some such ordinance as that stated by the author cited by Camden was issued in the reign of King Henry the Third, an inconvenience may have arisen in consequence, for which it was necessary that a remedy should be applied, and the frequent

applications which are well known to every one conversant with the history of Parliament at the beginning of the fourteenth century to have been made on the part of the clergy for redress of the alleged grievance of being summoned to Parliament in cases where no baronial tenure existed, probably suggested an investigation into the law and practice recognized in the earlier periods of parliamentary history, and possibly this treatise was suggested and written for the express purpose of restoring things to the state in which they had been before the battle of Evesham.

Having hazarded on the foregoing grounds an opinion that the Modus was published not later than the first quarter of the fourteenth century, the next point is to inquire whether some of the facts stated in the treatise will not warrant a limitation of its antiquity to the commencement of that century.

It seems certain that the Modus was written after the year 1244 on account of the constant occurrence of the word *Parliamentum*, a term that was never applied to a legislative assembly in England by any contemporary writer, or used in any record, before that year, but there is no doubt that from the latter end of the

reign of King Henry the Third the legislative assembly was termed Parliament, or in Latin Parliamentum.

There would be no difficulty in proving, if it were necessary, that until the year 1279 the inferior clergy were not permitted to send two procurators to the parliamentary convocation as their representatives; and it cannot escape attention that the paragraph which treats of the summoning of the clergy to Parliament contains this remarkable clause: "Also the King used "to issue his summonses to the archbishops, "bishops, and other exempt persons such as "abbots, priors, deans, and other ecclesiastics "who have jurisdictions by such exemptions "and privileges, separately, that they, for each "deanery and archdeaconry of England, should "cause to be elected, by the deaneries and arch-"deaconries themselves, two experienced and fit "procurators from their own archdeaconry to "come and be present at the Parliament, to under-"take, allege, and do the same which all and "singular the persons of those deaneries and "archdeaconries would do if they were there "personally present. (p. 5.)

"And that such procurators shall come with "their duplicate warrants, sealed with the seals

"of their superiors, that they are the clergy "sent to such procuratorship; one of which "warrants," &c.

Now this statement, though not strictly in accordance with the instructions set forth in all writs of summons which contain the *præmunientes* clause from the date of the earliest of such writs on record, viz., *that of the* 30*th of September*, 23*d Edw. I.*, (*the writ of the* 19*th of August*, 22*d Edw. I.* not being precisely in point,) to the present time, shows most conclusively that the treatise itself was not compiled before the seventh of Edward the First, because it was not until that year that the diocesan clergy were represented in Convocation by two procurators chosen from each diocese; and indeed as it is not probable that the insertion of the *præmunientes* clause in writs of summons to the metropolitan and diocesan prelates commenced anterior to the year 1294, it might be contended, unless any suspicion of subsequent interpolation could attach to the passage above cited, that the Modus was not written until some time after that date.

Having premised that nothing can with certainty be relied upon as to the precise age of this treatise, yet as an opinion may be expected

from the Editor, he, with great deference, ventures to suggest that it was probably written some time between the years 1294 and 1327, but it may be repeated that there is not at present known to be extant any copy of it in the exact form in which it originally appeared, several clauses having manifestly been added to or altered from the original text to suit the altered state of circumstances in later times, or perhaps even the views of different people at different periods.

As it would be impossible at the present day to say from what sources not now in existence the author may have compiled this work, no opinion is here hazarded as to the accuracy with which its statements are put forth; but it may be observed that the records now extant do not afford even a presumption that this was the mode of holding Parliament at any time during the thirteenth century, whilst all history and record would justify the rejection of the statement that such was the mode of holding Parliament in the Saxon times, or in the times of any monarch of the Norman line.

Although the MODUS TENENDI PARLIAMENTUM has been known for so many years, yet, strange as it may seem, the original has never before

been separately published in England. It was, however, printed in Dachery's Spicilegium (28) under the title "Statuta antiqua in quibus "Angliæ totius regni comitiæ ordinantur." An English translation of it appeared as early as the year 1641 (29), which has been several times reprinted.

This publication was contemplated by Mr. Cooper when secretary to the late record commission, at the suggestion of Sir Francis Palgrave, and a text was prepared and printed. (30) The present text is taken from a manuscript in the Bibliotheque du Roi at Paris, described by M. Champollion Figeac as being as ancient as the thirteenth century. (31) It has been compared with several manuscripts in the British Museum and elsewhere, and also with the text in the Spicilegium, and all material variations are pointed out in the notes. It has also been thought advisable to print a new translation, as the previous translations are so very incorrect as to be likely to mislead.

The Editor cannot conclude these prefatory remarks without stating that he has purposely abstained from expressing any opinion on the many constitutional questions which arise on

the consideration of the "Modus tenendi Par-"liamentum;" he has thought that any discussions upon controverted constitutional questions, which might possibly be considered of a political and party character, ought to be avoided on the present occasion. He has, however, prepared a general dissertation on the Modus, in which every important passage in the work has been impartially investigated, and the errors and misstatements of Lord Chief Justice Coke, Prynne, and the other commentators on this curious treatise have been exposed and, he hopes refuted.

NOTES.

(1) " Sir Edward Coke vouched it in the Parliament of
" 35 Eliz. an. 1592., when he was speaker, which Modus a
" grave member of the house then showed and delivered to
" him (as he informed the house in his argument of Fitz-
" herbert's case), which book if any member desired to see,
" he then said, he would shew it him; being a president
" of a Parliament holden before the Conquest, intituled
" Modus tenendi Parliamentum." (Prynne's Animadversions on the 4th Institute, p. 7.)

(2 & 3) Proeme to his 9th Report; 1 Inst. pp. 60, 321. Edit. Thomas. 2 Inst. p. 7, 8. 4 Inst. pp. 1, 2, 3, 4, 5, 11, 12 45, 51, 349.

(4) " Of the ancient treatise called Modus tenendi
" Parliamentum.

" Now for antiquity and authority of the ancient treatise
" called Modus tenendi Parliamentum, &c., whereof we
" make often use in this part of the Institutes, certain it is
" that this Modus was rehearsed and declared before the
" Conquerour at the time of his conquest, and by him
" approved for England, and accordingly the Conquerour,
" according to Modus, held a Parliament for England, as
" it appeareth in 21 E. 3. fo. 60. After King H. 2. had
" conquered Ireland, he fitted and transcribed this Modus
" into Ireland in a parchment roll, for the holding of Par-
" liaments there, which no doubt H. 2. did by advise of
" his judges, being a matter of so great weight and legall.

"This Modus, in the parchment roll transcribed as afore-
"said by H. 2., remained in Ireland, and in anno 6 H. 4.
"was in the custody of Sir Christofer Preston knight, a
"man of great wisedome and learning, which roll King H. 4.
"in the same yeare, De assensu Johannis Talbot chivalier,
"his lieutenant there, and of his cowncell of Ireland, exem-
"plified for the better holding of the Parliaments there;
"and in the exemplification it expresly appeareth that
"H. 2. did transcribe this Modus, as is abovesaid.

"This Modus was seene by the makers of the statute of "Magna Charta, anno 9 H. 3. cap. 2., concerning the "reducing of the ancient reliefes of entire earldomes, "baronies, and knights fees, according to such proportions "as is contained in the Modus, which they could not have "done so punctually if they had not seene the same, "whereof you may read more at large in the first part of "the Institutes, sect. 103. fo. 76. verbo Relief. And some "part of this Modus is cited in the Parliament Roll, anno "11 R. 2. and other records of Parliament, and upon dili- "gent search we can find nothing against it. But many "very ancient copies you may find of this Modus, one "whereof we have seene in the reigne of H. 2., which con- "taineth the manner, forme, and usage of Gilbert de "Scrogel, marshall of England, in what manner he occupied "and used the said roome and office in all his time, and how "he was admitted, &c. at the coronation of H. 2., and of "his knight marshall and other inferiour officers, &c., and "adjoyned thereunto, and of the same hand in this Modus, "as fit for him to know.

"But lest it might be said to me, as it was once said to "an oratour, who having spoken much in commendation of "Hercules, it was demanded of one that stood by, 'Quis "vituperavit?' Ad quod non fuit responsum." (Coke, 4 Inst. p. 12.)

(5) Titles of Honour, p. 739. edit. 1631.

(6) Brief Register, pp. 397 to 407. Part 2. pp. 143 to 164. Part 4. pp. 553 to 609. Epistle and Preface before "An Abridgment of the Records in the Tower." Plea for the Lords, pp. 25, 26, 27, 29, 164, 165 to 185. Parliamentaria Rediviva, pp. 242 to 249. Levellers levelled, pp. 18, 19.

(7) "Upon consideration of all the premises, and of the "levelling passages of holding a Parliament by the King "and the Commons alone, without the Lords, if the Lords "were summoned and refused to come, as most of them did "in this very Parliament upon its prorogation, for which, "on the last day of February 32 Hen. 6., they were deeply "fined (at the petition of the Commons, without imposing "any fine upon any Commoner then absent), and some of "those fines agreeing with the very sums in this Modus, "though somewhat mistaken in the rest, there being no "other president of any such fines but this. I strongly "apprehend that this *Modus tenendi Parliamentum* was "compiled between the twenty-seventh and thirty-third "years of King Henry the Sixth his reign by some creature "of Richard Duke of York, who in the Parliament of "31 & 32 H. 6. (when I conceive this Modus was forged), "by the Commons petition, and his confederacy with them, "was made chief councillor, protector, and defender of the "realm, &c." (Prynne's Fourth Part of the Brief Register, p. 607.)

(8) "This Modus, treating '*De locis et sessionibus in* "*Parliamento*,' informs us that on the right hand of the "King's throne '*sedebit archiepiscopus Cantuariensis et* "*episcopi London et Winton, et post illos seriatim alii* "*episcopi, abbates, &c., et in parte sinistra Regis sedebunt* "*archiepiscopus Ebor' episcopus Dunelm' et Carliol', et post* "*illos seriatim comites*,' &c., which seems to be borrowed, "with some grosse mistakes, out of the statute of 31 Hen. 8. "c. 10., and so compiled after it." (The Fourth Part of a Brief Register, &c. of Parliamentary Writs, p. 562.)

(9) Besides his attack of the Modus in his "Brief Animad- "versions on and Amendments of the Fourth Part of Coke's "Institutes," Prynne wrote an elaborate chapter (section VIII.) in the fourth part of a brief register of Parliamentary Writs, which purports to contain "a clear discovery and "refutation of manifold falsities, forgeries, errors in the "pretended antient treatise and record (but in truth late "imposture) intituled 'Modus tenendi Parliamentum,' and "Sir Edward Coke's asseverations of its great antiquity

" and authority, both by its passages concerning the expenses " of barons of the Cinque Ports, knights, citizens, burgesses " of Parliament, proctors of the clergy, and some other " particulars here discussed, to disabuse all hitherto seduced " by them, and vindicate real truths against fabulous " legends."

Sir Edward Coke's accuracy has been more than once questioned. See Lord Chief Justice Vaughan's observations in Calvin's case, and the argument in Lord Purbeck's case, reported in Shower's Cases in Parliament. Prynne, in his various voluminous works, but more especially in his Animadversions on the Fourth Institute, never allows an opportunity to escape of venting his spleen upon Sir Edward Coke. In a Plea for the Lords, p. 297, Prynne writes thus, " Sir Edward Coke, who hath an excellent faculty, above all " others I have met with, in mistaking, misreciting, and " perverting records and law books too oftentimes, which " he had no leisure to peruse, which I desire all lawyers and " others to take notice of, who deem all he writes to be " oracle, lest they should be seduced by him."

(10) " The Modus tenendi Parliamentum, according to the " title as given in Lord Coke's preface to his ninth book of " Reports, imports to be an account of the manner of " holding the English Parliaments in the time of Edward " the Confessor, and that it was approved of by the first " William, and conformed to in his time and in that of his " successors. To this Modus Lord Coke frequently refers " as a most undoubtedly genuine piece of antiquity; and in " his Fourth Institute he tells us, that Henry the Second, " after having conquered Ireland, sent a transcript of this " Modus into that country as a model for Parliaments " there; and that in the reign of Henry 4. this transcript, " which is known by the name of the Irish Modus, fell into " the hands of Sir Christopher Preston, and was then " exemplified by Inspeximus under the Great Seal of " Ireland. But, notwithstanding all this, the reasons of " Mr. Selden and Mr. Prynne, of whom the former supposes " it to have been an imposture of the time of Edward the " Third, and the latter makes it an invention as late as the " 31 Henry 6, seem to furnish unsurmountable objections

" against the authority of the English Modus; and so con-
" vinced of their force was an able advocate for the exist-
" ence of the commons as a constituent part of Parliament
" before the 49 Henry 3, that he candidly gives up its
" antiquity, though if it could have been defended, it would
" have decided the controversy in his favour, for it expressly
" mentions citizens and burgesses as well as knights of the
" shire. (See 4 Inst. p. 12. Seld. Tit. Hon. 2d ed. Part 2.
" c. 5. s. 26. Pryn. on 4 Inst. 1. and Tyrr. Biblioth. Polit.
" 270. 406.) However Dr. Dopping, bishop of Meath, who
" in 1692 first published the Irish Modus, feebly endeavours
" to defend the antiquity of the supposed transcript in the
" time of Henry 2, and two other writers deservedly of
" great credit seem inclined the same way. See Molyn,
" Case of Ireland, and Harr. Edit. of Ware's Hist. and
" Antiq. of Irel. 84. Mr. Selden mentions, that in his time
" there were many copies of the English Modus, but I am
" not aware that any one is in print." (Hargrave's Note to Litt. 2. 69 b.)

(11) Such for instance as the passages at pp. 11. 37.

(12) The Editor has neither seen nor heard of any manuscript of the English Modus that does not contain the Proeme, but the Irish Modus which was exemplified in the Sixth of Henry the Fourth is without it, and so also is the copy of the Irish Modus in the German MSS., and in that copy King Henry the Fourth's exemplification does not even occur; it begins thus: "Modus tenendi Parliamenta
" et concilia in Hibernia."

(13) The "Modus tenendi Parliamentum," in Hibernia, was first published, in 1692, by Anthony Dopping, lord bishop of Meath, and a new edition of it was printed in 1712. The bishop believes it to be the same referred to by Sir Edward Coke, and considers it, notwithstanding Prynne's objections, to be an authentic document.

The copy of the *Irish Modus* referred to by Coke, Selden, Prynne, and Dopping, professes to be of the time of King Henry the Fourth. It is an exemplification under the Great Seal of Ireland in the sixth year of the reign of King Henry the Fourth, when Sir John Talbot of Hallamshire was the lord lieutenant.

The following are the first and final clauses of that exemplification:

"Henricus, Dei gratia Rex Angliæ et Franciæ et Dominus "Hiberniæ, omnibus ad quos præsentes litteræ pervenerint "salutem. Inspeximus tenorem diversorum articulorum in "quodam rotulo pergameneo scriptorum cum Christofero de "Preston milite tempore arrestationis suæ apud villam de "Calne per deputatum dilecti et fidelis nostri Johannis "Talbot de Halomshire chivaler locum nostrum tenentis "terra nostra Hiberniæ nuper factæ invento ac coram nobis "et consilio nostro in eadem terra nostra apud villam de "Trym nono die Januarii ultimo præterito ostenso in hæc "verba:

"Modus tenendi Parliamenta.

"Henricus Rex Angliæ conquestor et dominus Hiberniæ "mittit hanc formam archiepiscopis, episcopis, abbatibus, "prioribus, comitibus, baronibus, justiciariis, vicecomitibus, "majoribus, præpositis, ministris, et omnibus fidelibus suis "terræ Hiberniæ tenendi Parliamentum."

(Here follows the Irish Mode, which, in most points, substantially agrees with the English Mode, but the phraseology and order of words are different.) The final clause of the exemplification is worded thus:

"Nos autem tenores articulorum prædictorum de assensu "præfati locum tenentis et consilii nostri prædicti tenore "præsentium duximus testificandum. In cujus rei testimo- "nium has litteras nostras fieri fecimus patentes. Teste "præfato locum nostrum tenente apud Trym, 12° die "Januarii anno regni nostri sexto."

There seems to be no reason for doubting the authenticity of the exemplification; but, before a similar opinion could be maintained regarding the antiquity and authenticity of the parchment roll found in the possession of Sir Christopher Preston, it is necessary that it should be seen and examined.

Selden, in his "Titles of Honour," pp.743,744, thus writes relative to the Irish Modus:

"And the same that is said of the credit and authority "of this (English) Modus may be likewise said of that "which was found in a Parchment roll with Sir Christopher

"Preston, at Calne, in Ireland, under King Henry the "Fourth, not much differing from this usual '*Modus* "*tenendi Parliamentum*' in England, only that it is made "proper for Ireland, and supposed to have been sent thither "by King Henry the Second, when he conquered Ireland, "for a direction how to hold their Parliament. But the "sense of it is for the most part just like that whereof we "have so many copies for England. It was, as I have "heard, exemplified by *Inspeximus* under the Great Seal "of Ireland by the lord Talbot, lieutenant of Ireland, under "Henry the Fourth, and I had from my worthy friend "Mr. Hackwell of Lincoln's Inn the use of a copy of the "exemplification that was transcribed out of it, when here-"tofore the exemplification itself, under seal, was in his "hands."

"But whoever was the author of this Irish Modus, I "think, doubtless took it out of this other whereof we have "so many copies in England, and so fitted it to that king-"dom, not only in the supposed parliamentary forms, but "also in the title, that it might have every way like relation "to Ireland as the other to England. For as that of "England is supposed to have been declared before King "William, and allowed by him at his conquest, so this also "by Henry the Second at his of Ireland. But I do not "believe that either of them were so ancient as Henry the "Second. His style in it agrees not with any that I have "seen of him. Nor before King John's time were sheriffs "and other officers and dignitaries (according to the English "pattern) so settled there that those dignities and offices to "whom (even as at this day the use is) the Inspeximus is "directed could have had such place in it under Henry the "Second."

(14) Although it is apparent that Prynne had only seen comparatively modern copies of the Modus, yet it is certain that he was aware that copies as early as the reigns of Edward the Third and Richard the Second had been seen by Selden and Agard, for in his Animadversions on the Fourth Inst., p. 7., he writes, "And no sooner had he "(Coke) extolled its antiquity and authority in print, but our "most judicious, industrious antiquary Mr. John Selden

" (Titles of Honour, p. 708. 710. 718 to 721,) decried it " as a late imposture of a bold fancy, not exceeding the " reign of King Edward the Third." Again, at p. 331 of his Animadversions, Prynne again writes, " In perusing " Mr. Agar's (Agard's) Abridgment of the *Placita coram Rege* " in the Treasury of the Receipt of the Exchequer, I found " at the end of his abridgment and table to the Placita of " King Richard the Second this *Modus tenendi Parliamentum*, transcribed by him out of a manuscript in Sir " Robert Cotton's library, as relating to the time of Richard " the Second, &c., therefore, in his opinion, its highest " antiquity exceeded not the later end of King Richard the " Second his reign."

(15) Agard's transcript cannot now be found at the Chapter House.

(16) Nero D. VI.

(17) Gruthuyse MS., No. 6049.

(18) The treatise states that the two knights for a county used not to receive *more* than 6*s.* 8*d.* each per diem, but it does not state that they were always to receive as much; there is one instance on record in which the knights for the county of Northampton received at the rate of 10*s.* each per diem, being 3*s.* 4*d.* more than the maximum mentioned in the treatise.

That the knights, however, did not always receive as much as 6*s.* 8*d.* each per diem, exclusive of their charge for going to and returning from Parliament, is clear from the following instances:

In 1311 the knights for Dorsetshire received 5*s.* each per diem, but in 1312 they only had 1*s.* 6*d.* each a day, though they claimed 5*s.*, exclusive of their expenses in going to and returning from the Parliament.

In 1313 and 1314 the sum of 4*s.* a day was paid to each county member, exclusive of the charge for going and returning.

In 1318 they appear to have had 5*s.* each.

In 1319 and several other years they had 4*s.* each per diem, exclusive of going and returning.

In 1322, at one Parliament, the knights had 4*s.* each per

diem, and those termed *valecti*, though returned for a county, only had 2*s*. each.

In 1323 the knights received 3*s*. 4*d*. each, and the *valecti* only 1*s*. 8*d*.

In 1324 the knights had 2*s*. 6*d*. each per diem; and

In 1325 they had 3*s*.

From the year 1327 the allowance to the county members, whether knights or *valecti*, was 4*s*. per diem each, exclusive of the charge of going to and returning from Parliament; and this sum appears to have been paid as long as the members received payment for their attendance at Parliament.

(19) The only two titles of temporal peers mentioned in the Modus are those of earls and barons, a fact which goes far to prove that it was written before any others were created; the dignity of Duke was first conferred in the eleventh of Edward the Third, and that of Marquis in the ninth of Richard the Second. Moreover, it was enacted in the fifth of Richard the Second, that "whatsoever person "in the kingdom who should thenceforth have summons to "Parliament, be he archbishop, bishop, abbot, prior, duke, "earl, baron, banneret, knight of county, citizen of city, "and burgess of borough, and should be absent, or should "not come on such summons, should be amerced or other-"wise punished." Therefore, had the title of Duke been in existence when the Modus was written, the author of it, who is particularly minute in his description of the degrees and places in Parliament (p. 25. & 33.) would hardly have passed them over without some notice. Prynne, however, in his Animadversions on the Fourth Institute, states, that the calling over the names of the estates of Parliament was practised pursuant to the statute of 5 Richard II.; and in his "Plea for the Lords," p. 29., he says that the Modus was manufactured out of that statute. In answer to which it may be again stated that the title of Duke is mentioned in that statute, which, had it been known to the author of the Modus, he certainly would not have omitted to mention it.

(20) That 10*s*. per diem is a very large allowance no one acquainted with the value of money at the period in

question wil attempt to deny; but it does not follow that the author of the Modus has stated a falsity because the sum is so large, especially as there is among the city archives a document which proves that the members for London were paid 10s. per diem for their parliamentary attendance.

(21) "Litťa dñi Regis ad facienđ veniŕ duos de dis-"
" crećorib; Civiť ad pliaм̃ ap̃d Sc̃m Edm̃.
" Die M'cuŕ px̃ añ festum Sc̃i Mich anno ŕ. ŕ. E. vice-"
" simo q̃rto dirctum fuit bŕe Dñi R̸. in ħ ẟba.
" Edwardus Di gŕa ⁊c̃. Custođ ⁊ Vicb3 Londoñ. Quia
" cum comitib; baronib; ⁊ ceťis pcerib; regni nŕi sup
" remediis cont^a picula que ej⁹dem regno hiis dieb; iminēt
" pvidenđ colloquiũ ħere volum⁹ ⁊ tractatum p quod eis
" mandavim⁹ q̃d sint ad nos in c̃stino aĩaʒ px̃ futuŕ apud
" Sc̃m Edm̃ ad t^actandũ ordinanđ ⁊ facienđ qualiť sit
" picuŀ obviandũ huj⁹modi ⁊ statui ej⁹đm regni tucius ⁊
" utilius consulenđ, voƀ p̃cipim⁹ firmiť injungentes q̃d de
" Civitate p̃dc̃a duos Cives de discrećorib; Civitatis p̃dc̃e
" sine dil̃one eligi ⁊ eos ad nos ad p̃dc̃os diem ⁊ locũ venire
" fac̃. Ita q̃d dc̃i cives plenã ⁊ sufficientē potestatem p se ⁊
" cõitate Civitatis p̃dc̃e tũc ibidem ħeant ad facienđ q̃d tũc
" de cõmuni consilio ordinabit^r in p̃missis. Ne p defc̃u
" huj⁹modi potestatis negociũ p̃dc̃m infectum remaneat quo-"
" quo modo. Et ħeas ibi noĩa Civiũ ⁊ hoc bŕe. T. me
" ip̃o apud Berewyk sup Twedam xxvi. die Augusti anno
" ŕ. ñ. vicesimo q̃rto.
" Per quod quidē mandatũ convocati fuerũt oм̃s Alderм̃
" ej⁹đ Civitatis ⁊ quatuor hoĩes de singuŀ warđ ej⁹đ
" Civitatę qui oм̃s unanimi assensu ⁊ consensu elegũnt
" Stepħũ Aschewy ⁊ Wiłłm̃ de Herefořd de eundo ad
" pliamentũ dñi R̸. ap̃d Sc̃m Edm̃ p cõmunitate ⁊c̃. Et
" concesserũt eisđ unanimi assensu singuŀ dieb; p expeñ
" suis eundo ⁊ redeundo xx. s." (Palgrave's Parl. Writs, Vol. I. p. 49.)

(22) Bibliotheca Politica, p. 270.

(23) The earliest writ summoning the Commons is in the 18th of Edw. I. See Palgrave's Parliamentary Writs.

(24) See Peerage Reports, p. 485.

(25) p. 712.

(26) Brit. p. 122.

(27) See the report on the dignity of Peer of the Realm.

(28) This work principally consists of a collection of ancient documents, chiefly relating to ecclesiastical affairs, such as acts, canons, councils, chronicles, lives of saints, letters patent, charters, &c., taken from French monastic libraries. It was originally published in thirteen volumes quarto, 1653–1677. A new edition, in three volumes folio, by Francis Joseph de la Barre was issued in 1725.

D'Achery does not state where the manuscript is to be found from which he printed the "Modus tenendi Parliamentum;" but there is a copy of it in the Bibliothéque du Roi at Paris, among the Gruthuyse Manuscripts, which has been collated with D'Achery's text, and they agree *litteratim.* Monsieur Claude, who kindly undertook the trouble of this comparison for me, writes "quoiqu'il en soit "ce MS. est celui de la Gruthuyse, et la collation que j'en "ai faite avec l'imprimé, m'a prouvé jusqu'à la derniere "evidence que c'est celui qui a servi à D. D'Achery pour "faire son edition. Il n'y a pas entre ce MS. et l'edition la "plus petite variance, soit dans le texte, soit dans les titres. "Le catalogue le donne comme etant du XIV. siecle, et il n'y "a pas l'ombre d'un doute a élever a cet égard." M. Claude also states that the copy of the Modus which was made for the late Record Commission, through the intervention of Mr. C. P. Cooper, was taken from the Gruthuyse Manuscript, No. 6049, and that there is no other copy of the Modus in the Bibliothéque du Roi.

(29) The British Museum does not possess a copy of the edition of 1641. Editions appeared in 1659 and 1671, edited by Mr. Hakewel of Lincoln's Inn. Elsing's Manner of holding Parliaments in England is an original work, and not a translation of the Latin Modus, though there are therein frequent references to the Modus.

There are several manuscript copies of the English translation extant in the British Museum and College of Arms,

the library of Sir Thomas Phillipps, Bart., and elsewhere. I take this opportunity of returning my thanks to Sir Thomas for his kind liberality in allowing me the use in London of his manuscript.

(30) Extract from Minutes of Evidence taken before the Select Committee on Record Commission, p. 242:

" 2731. The next work was the Modus tenendi Parlia-
" mentum?—That was printed originally as part of the
" Agenda.

" 2732. In folio?—Yes; the Agenda contain a fac-simile
" of a MS. of the Modus tenendi Parliamentum at Paris.
" I printed it on the statement of Sir Francis Palgrave that
" it never had been printed. I afterwards discovered, before
" it was worked off, that it had been printed in D'Achery's
" Spicilegium, a work very little known in this country. I
" did not think it worth while to print it in the Agenda;
" but the expense having been incurred I thought it well,
" before the type was broken up, to have 250 copies worked
" off in an octavo form."

It will be seen in one of Sir Francis Palgrave's reports that one of his proposals was to print this Modus tenendi Parliamentum.

Treating of the materials to be used for an early History of Parliament, Sir Francis Palgrave writes, " So much
" obscurity will indeed remain, even after we have explored
" every document which may be considered as legal evidence,
" that it may not be improper to have recourse to other
" sources affording collateral or historical illustration of the
" nature of the constitution. Even such a manifest forgery
" as the Modus tenendi Parliamentum affords instruction
" with regard to prevailing opinion respecting the antiquity
" of the House of Commons." (Cooper on Records, Vol. II. p. 6.)

(31) Mr. Cooper, in his Public Records, writes, " M. Cham-
" pollion Figeac has lately informed the compiler, that there
" has been discovered in the Bibliothéque du Roi at Paris
" a manuscript of the Modus tenendi Parliamentum as
" ancient as the thirteenth century." (Cooper on Public Records, Vol. 2. p. 6. note 3.) If the opinion of M. Cham-

pollion Figeac could be substantiated, it would be unimpeachable evidence that the *Modus* was written between the years 1200 and 1300, but the fact of the account of the coronation of King Richard the Second preceding it proves that the manuscript referred to by M. Champollion Figeac must have been written subsequent to the year 1377.

CONTENTS.

THE MODE OF HOLDING THE PARLIAMENT.

Here is described the mode how the Parliament of the King of England and his Englishmen used to be holden in the time of King Edward, the son of King Etheldred; which mode indeed was recited by the more select men of the kingdom before William Duke of Normandy, both Conqueror and King of England, the Conqueror himself commanding it, and by him approved, and used in his own times and also in the times of his successors Kings of England.

The Summoning of the Parliament.

The summoning of the Parliament ought to precede the first day of the Parliament forty days.

All and singular archbishops, bishops, abbots, and priors ought to be summoned and come to the Parliament by reason of their tenure; and the other chief clergy who hold by county or barony by reason of such tenure; and none of inferior order, unless their presence

MODUS TENENDI PARLIAMENTUM.

HIC describitur modus, quomodo Parliamentum Regis Angliæ et Anglicorum suorum tenebatur tempore Regis Edwardi filii Regis Etheldredi; qui quidem modus recitatus fuit per discretiores regni coram Willielmo Duce Normanniæ et Conquestore et Rege Angliæ, ipso Conquestore hoc[1] præcipiente, et per ipsum approbatus, et suis temporibus ac etiam temporibus successorum suorum regum Angliæ usitatus.

SUMMONITIO PARLIAMENTI.

Summonitio Parliamenti præcedere[2] debet primum diem Parliamenti per quadraginta dies.

Ad Parliamentum summoneri et venire debent, ratione tenuræ suæ, omnes et singuli archiepiscopi, episcopi, abbates, priores, et alii majores cleri, qui tenent per comitatum vel baroniam, ratione hujusmodi tenuræ, et nulli minores nisi eorum præsentia

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[1] *hoc;* some MSS. have *hæc.*
[2] *præcedere;* some MSS. have *procedere.*

and coming be required, otherwise than in respect of their tenures, as being of the King's Council, or their presence deemed necessary or useful to the Parliament, and to them the King is bound to furnish their costs and expenses in coming to and tarrying at the Parliament; nor ought such inferior clergy to be summoned to the Parliament, but the King used in like manner to issue his writs to such persons, enjoining them to be present at his Parliament.

Also the King used to issue his summonses to the archbishops, bishops, and other exempt persons such as abbots, priors, deans, and other ecclesiastical persons who have jurisdictions by such exemptions and privileges, separately, that they, for each deanery and archdeaconry of England, should cause to be elected, by the deaneries and archdeaconries themselves, two experienced and fit procurators from their own archdeaconry to come and be present at the Parliament, to undertake, allege, and do the same which all and singular the persons of those deaneries and archdeaconries would do if they were there personally present.

And that such procurators shall come with their duplicate warrants, sealed with the seals of their superiors,

et eventus aliunde quam pro tenuris suis requiratur, ut si sint[1] de consilio regis, vel eorum præsentia[2] necessaria vel utilis reputetur ad Parliamentum; et illis tenetur Rex ministrare sumptus et expensas suas de[3] veniendo et morando ad Parliamentum; nec debent hujusmodi[4] clerici minores summoneri ad Parliamentum, sed Rex solebat talibus pariter[5] mittere[6] brevia sua rogando quòd ad Parliamentum suum interessent.

Item, Rex solebat facere summonitiones suas archiepiscopis, episcopis, et aliis exemptis personis, ut abbatibus, prioribus, decanis, et aliis ecclesiasticis personis, qui habent jurisdictiones per hujusmodi exemptiones et privilegia separatim, quòd ipsi pro quolibet decanatu et archidiaconatu Angliæ per ipsos decanatus et[7] archidiaconatus eligi facerent duos peritos et idoneos procuratores de proprio archidiaconatu ad veniendum et interessendum ad Parliamentum, ad illud subeundum, allegandum[8] et faciendum idem quod facerent omnes et singulæ personæ ipsorum decanatuum et archidiaconatuum, si ibidem personaliter interessent.

Et quòd hujusmodi procuratores veniant cum warantis suis duplicatis, sigillis superiorum suorum signatis,

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[1] *ut si sint;* some MSS. have *et si sint.*

[2] *et eventus* to *præsentia.* These words are not in the transcript sent from Paris, but they occur in the best MSS. in England, and also in the Spicilegium.

[3] *de;* some MSS. read *in.*

[4] *hujusmodi;* some MSS. read *ejusmodi.*

[5] *pariter;* some MSS. read *peritis.*

[6] *mittere;* some MSS. read *mandare.*

[7] *et;* some MSS. omit *et.*

[8] *allegandum;* some MSS. read *allocandum.*

that they are the clergy sent to such procuratorship; one of which warrants shall be delivered to the clerks of the Parliament to be enrolled, and the other shall remain in possession of the procurators themselves, and thus under these two classes ought the whole clergy to be summoned to the Parliament.

Concerning the Laity.

Also there ought to be summoned and come all and singular the earls and barons and their peers, that is, those who have lands and rents to the value of a county or entire barony, to wit, twenty knights fees, each fee being computed at twenty pounds, which make four hundred pounds in the whole; or to the value of an entire barony, that is, thirteen knights fees and the third part of one knight's fee, each fee being computed at twenty pounds, which make four hundred marks in the whole; and none of the inferior laymen ought to be summoned or come to the Parliament in respect of their tenure, unless their presence for other causes be useful or necessary to the Parliament, and then it shall be done concerning them as it has been said concerning the inferior clergy, who by virtue of their tenure are in nowise bound to come to the Parliament.

Concerning the Port Barons.

Also the King is bound to send his writs to the warden of the Cinq Ports, that he cause two fit and

quòd ipsi ad hujusmodi procurationem clerici[1] missi sunt, quarum litterarum una liberabitur clericis de Parliamento ad irrotulandum et alia residebit penes ipsos procuratores; et sic sub istis duobus generibus summoneri debet totus clerus ad Parliamentum.

De Laicis.

Item, summoneri et venire debent omnes et singuli comites et barones, et eorum pares, scilicet illi qui habent terras et redditus ad valentiam comitatûs vel baroniæ integræ, videlicet viginti feoda unius militis, quolibet feodo computato ad viginti libratas, quæ faciunt quadringentas libratas in toto, vel ad valentiam unius baroniæ integræ, scilicet tresdecim feoda et tertiam partem unius feodi militis, quolibet feodo computato ad viginti libratas, quæ faciunt in toto quadringentas[2] marcas; et nulli minores laici summoneri nec venire debent ad Parliamentum, ratione tenuræ suæ, nisi eorum præsentia aliis de causis fuerit utilis vel necessaria ad Parliamentum, et tunc de illis fieri debet sicut dictum est de minoribus clericis, qui ratione tenuræ suæ ad Parliamentum venire minimè tenentur.

De Baronibus Portuum.

Item, Rex tenetur mittere brevia sua custodi Quinque Portuum quòd ipse eligi[3] faciat[4] de quo-

[1] *clerici;* the earliest MSS. in England read *electi.*
[2] *quadringentas;* some MSS. read *quadraginta.*
[3] *eligi;* some MSS. read *eligere.*
[4] *quòd ipse eligi faciat;* some MSS. read *quod ipsi eligi faciant* or *facerent.*

experienced barons to be elected from each port, by the port itself, to come and be present at his Parliament, to answer, undertake, allege, and do the same which their baronies would do as if all and singular the persons of those baronies were there personally present; and that such barons come with their duplicate warrants, sealed with the common seals of their ports, that they are duly elected and attorned for this purpose, and sent for those baronies, one of which warrants shall be delivered to the clerks of the Parliament, and the other shall remain in the possession of the barons themselves. And when such port barons, leave having been obtained, had departed from the Parliament, then they used to have a writ under the Great Seal directed to the warden of the Cinq Ports, that he should cause such barons to have from the commonalty of the port their reasonable costs and expenses from the first day they came to the Parliament till the day they were permitted to return home, express mention being also made in that writ of the stay they had made at the Parliament, of the day on which they came there, and of that on which they had leave to return; and sometimes mention used to be made in the writ how much such barons ought to receive by the day from those commonalties, some, to wit, more, some less, according to the means, rank, and respect of the persons, nor was it customary for more than twenty shillings a day to be expended on those two barons, regard being had to their stay,

libet portu per ipsum portum duos idoneos et peritos barones ad veniendum et interessendum ad Parliamentum suum ad respondendum, subeundum, allegandum, et faciendum idem quod[1] baroniæ suæ, ac si ipsi de baroniis[2] illis omnes et singuli personaliter interessent ibidem; et quòd barones hujusmodi veniant cum warantis suis duplicatis, sigillis communibus Portuum suorum signatis, quòd ipsi ritè ad hoc electi, et attornati sunt, et missi pro baroniis illis, quarum una liberabitur clericis de Parliamento, et alia residebit penes ipsos barones. Et cûm hujusmodi barones Portuum, licentiâ optentâ, de Parliamento recessum fecerant[3], tunc solebant habere breve de magno sigillo custodi Quinque Portuum, quòd ipse rationabiles sumptus et expensas suas hujusmodi baronibus habere faceret de communitate Portûs illius, à primo die quo versus Parliamentum venerint usque ad diem quo ad propria redierint[4], factâ etiam expressâ mentione in brevi illo de morâ quam fecerint ad Parliamentum, de[5] die quo venerint, quo[6] licentiati fuerint redeundi; et solebat mentio fieri aliquando in brevi quantum hujusmodi barones capere debent de communitatibus illis per diem, scilicet aliqui plus, aliqui minus, secundum personarum habilitates, honestates, et respectus, nec solebat poni per duos barones per diem ultra viginti solidos, habito respectu ad illorum[7] moras,

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[1] *quod;* some MSS. read *quod facerent.*
[2] *baroniis;* some MSS. read *baronibus.*
[3] *recessum fecerant;* some MSS. read *recessuri fuerant.*
[4] *redierint;* some MSS. read *redierunt.*
[5] *de;* in some MSS. the words are *et de.*
[6] *quo;* some MSS. read *et quo.*
[7] *illorum;* some MSS. read *eorum.*

labours, and expenses; nor are such expenses certainly to be allowed by the court to any persons so elected and sent for the commonalties, unless those persons had conducted themselves well and honourably in the Parliament.

Concerning the Knights of Shires.

Also the King used to send his writs to all the sheriffs of England, that each of them for his own county should cause two fit, honourable, and experienced knights to be elected, by the county itself, to come to his Parliament in like manner as it has been said of the Port Barons, and of their warrants in like manner, but for the expenses of the two knights by one county there used not to be paid more than one mark a day.

Concerning the Citizens.

In the same manner it used to be commanded to the mayor and sheriffs of London, and the mayor and bailiffs or the mayor and citizens of York and other cities, that they for the commonalty of their city should elect two fit, honourable, and experienced citizens to come and be present at the Parliament in the same manner as it has been said concerning the barons of the Cinq Ports and the knights of shires; and

labores et expensas, nec solent hujusmodi expensæ in certo reponi per curiam pro quibuscumque personis sic electis et missis pro communitatibus, nisi personæ ipsæ fuerint honestè et benè se habentes in Parliamento.

De Militibus.

Item, Rex solebat mittere brevia sua omnibus vicecomitibus Angliæ, quòd eligi facerent quilibet de suo comitatu per ipsum comitatum duos milites idoneos, et honestos, et peritos, ad veniendum ad Parliamentum suum, eodem modo quo dictum est de baronibus Portuum, et de warantis suis eodem modo, sed pro expensis duorum militum de uno comitatu non solet poni ultra unam marcam per diem.[1]

De Civibus.

Eodem modo solebat mandari majori et vicecomitibus Londoniarum[2], et majori et ballivis vel majori et civibus Eborum et aliarum civitatum, quòd ipsi pro communitate[3] civitatis suæ eligerent duos idoneos, honestos, et peritos cives ad veniendum et interessendum ad Parliamentum eodem modo quo dictum est de baronibus Quinque Portuum et militibus comitatuum; et

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[1] *per diem.* In some MSS. of later date the following words occur after *per diem*: "*et nunc per diem octo solidos videlicet pro quolibet* "*eorum quatuor solidos.*"

[2] *Londoniarum;* some MSS. read *Londoniæ.*

[3] *communitate;* some MSS. read *comitatu.*

the citizens used to be on a par and equality with the knights of shires in the expenses of coming, tarrying, and returning.

Concerning the Burgesses.

In the same manner also it used and ought to be commanded to the bailiffs and good men of boroughs that they should elect two fit, honourable, and experienced burgesses from among themselves and for themselves to come and be present at the Parliament in the same manner as it has been said of citizens, but the two burgesses used not to receive for their expenses more than ten shillings for one day, and sometimes not more than half a mark, and this used to be taxed by the court according to the greatness and power of the borough and according to the credit of the persons sent.

Concerning the principal Clerks of the Parliament.

Also the two principal clerks of the Parliament who shall inroll all the pleas and transactions of the Parliament shall sit in the midst of the justices.

And be it known that those two clerks are not subject to any of the justices, nor is any justice of England in the Parliament, nor have they by themselves records in the Parliament, except so far as a new power is assigned or given to them in the Parliament by the King and peers of Parliament, as when they are assigned with others

solebant cives esse pares et equales cum militibus comitatuum[1] in expensis veniendo, morando et redeundo.

De Burgensibus.

Item, eodem[2] modo solebat et debet mandari ballivis et probis hominibus burgorum, quòd ipsi ex se et pro se eligant duos idoneos, honestos, et peritos burgenses ad veniendum et interessendum ad Parliamentum eodem modo quo dictum est de civibus; sed duo burgenses non solebant percipere pro expensis suis per unum diem ultra decem solidos, et aliquando ultra dimidiam marcam, et hoc solebat taxari per curiam, secundum magnitudinem et potestatem burgi et secundûm honestatem personarum missarum.

[3]De Principalibus Clericis Parliamenti.

Item, duo clerici principales Parliamenti sedebunt in medio justiciariorum, qui irrotulabunt omnia placita et negotia Parliamenti.

Et sciendum quòd illi duo clerici non sunt subjecti quibuscumque justiciariis, nec est aliquis justiciarius Angliæ in Parliamento, nec habent per se recorda in Parliamento, nisi quatenus assignata vel[4] data fuit eis nova potestas in Parliamento per regem et pares Parliamenti, ut quando assignati sunt cum aliis secta-

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[1] *comitatuum;* some MSS. read *comitatûs.*

[2] *Item, eodem;* some MSS. read *eodem;* others *Item, eo.*

[3] In some MSS. the sections occur in a different order from that in the present text; and from an expression in the paragraph "Concerning the Mode of the Parliament" (p. 26.) it is evident that it differs from that in the original MS.

[4] *vel;* some MSS. read *et.*

the suitors[1] of the Parliament to hear and determine the divers petitions and plaints laid before the Parliament; and these two clerks are subject immediately to the King and his Parliament in common, unless perchance one or two justices be assigned to them to examine and amend their inrolments, and when peers of the Parliament are assigned specially by themselves to hear and examine any petitions, then when they shall be unanimous and agreed in rendering their judgments on such petitions, they shall recite the proceeding had therein, and shall render their judgments in full Parliament, so that those two clerks may inrol principally all pleas and all judgments in the principal roll of Parliament, and deliver those rolls to the King's treasurer before the Parliament be permitted to break up, so that by all means those rolls be in the Treasury before the recess of Parliament, reserving nevertheless to the same clerks the transcript or counter-roll thereof if they wish to have it. These two clerks, unless they be in some other office under the King and take fees from him wherewith they can live creditably, shall receive of the King one mark a day for their expenses by equal portions, unless they be at the board of the lord

[1] Persons owing suit and service.

toribus Parliamenti ad audiendum et terminandum diversas petitiones et querelas in Parliamento porrectas[1]; et sunt illi duo clerici immediatè subjecti regi et Parliamento suo in communi, nisi fortè unus justiciarius vel duo assignentur eis ad examinanda et emendanda eorum irrotulamenta, et cûm pares Parliamenti assignati sunt ad audiendas et examinandas aliquas petitiones specialiter per se, tunc cûm ipsi fuerint unanimes et concordes in judiciis suis reddendis super ejusmodi[2] petitionibus, recitabunt[3] et processum super eisdem habitum[4] et reddent judicia in pleno Parliamento, ita quòd illi duo clerici principaliter irrotulent omnia placita et omnia judicia in principali rotulo Parliamenti, et eosdem rotulos liberent ad thesaurarium regis antequam Parliamentum licentietur[5], ita quòd omni modo sint illi rotuli in Thesaurariâ ante recessum Parliamenti, salvo tamen eisdem clericis inde transcripto, sive contrarotulo si id habere velint. Isti duo clerici, nisi sint in alio officio[6] cum rege, et feoda capiant de eo, ita quòd inde honestè vivere poterint, de rege capiant per diem unam marcam pro[7] expensis suis per equales portiones, nisi sint ad mensam domini

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[1] *porrectas;* some MSS. read *correctas.*

[2] *ejusmodi;* some MSS. read *hujusmodi.*

[3] *recitabunt;* some MSS. read *tunc recitabunt,* and others add *hujusmodi petitiones.*

[4] *et processum super eisdem habitum;* some MSS. read *et processu super eisdem reddito.*

[5] *antequam Parliamentum licentietur;* some MSS. read *ante Parliamentum licenciatum.*

[6] *alio officio;* some MSS. read *aliquo officio;* others *aliis officiis.*

[7] *pro;* some MSS. read *cum.*

the King, then they shall take beside their table half a mark per day by equal portions, during the whole Parliament.

Concerning the Five Clerks.

Also the King shall assign five skilful and approved clerks, of whom the first shall assist and attend the bishops, the second the procurators of the clergy, the third the earls and barons, the fourth the knights of shires, the fifth the citizens and burgesses; and each of them, unless he be under the King, and receive from him such fee or wages wherewith he can creditably live, shall receive from the King two shillings a day, unless he be at the board of the lord the King, then he shall receive twelve-pence a day; which clerks shall write their questions and the answers which they make to the King and Parliament, and shall be present at their council whenever they wish to have them, and when they are unemployed they shall assist the principal clerks to inrol.

Concerning difficult Cases and Judgments.

When any dispute, question, or difficult case, whether of peace or war, shall arise in or out of the kingdom, the case shall be related and recited in writing in full Parliament, and be treated of and debated on there among the peers of the Parliament, and if it be necessary it shall be enjoined by the King, or on

regis, tunc capient præter mensam suam per diem dimidiam marcam per equales portiones, per totum Parliamentum.

De quinque Clericis.

Item, Rex assignabit quinque clericos peritos et approbatos, quorum primus ministrabit et serviet episcopis, secundus procuratoribus cleri, tertius comitibus et baronibus, quartus militibus comitatuum, quintus civibus et burgensibus, et quilibet eorum, nisi sit cum rege et capiat de eo tale feodum seu talia vadia[1] quòd inde honestè possit vivere, capiet de rege per diem duos solidos; nisi sint ad mensam domini regis, tunc capiant per diem duodecim denarios; qui clerici scribent eorum dubitationes et responsiones quas faciunt regi et Parliamento, et[2] intererunt ad sua consilia ubicumque eos habere voluerint; et, cum ipsi vacaverint, juvabunt clericos principales ad irrotulandum.

De Casibus et Judiciis difficilibus.

Cum briga, dubitatio, vel casus difficilis sit[3] pacis vel guerræ, emergat in regno vel extra, referatur et recitetur casus ille in scriptis in pleno Parliamento, et tractetur et disputetur ibidem inter pares Parliamenti, et, si necesse sit, injungatur per regem seu ex

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[1] *de eo tale feodum seu talia vadia;* some MSS. read *talia feoda et vadia.*

[2] *et;* some MSS. omit *et.*

[3] *sit;* some MSS. omit this word, others have *sive* in place thereof.

his behalf if he be not present, to each degree of peers, that each degree proceed by itself, and the case shall be delivered in writing to its clerk, and in an appointed place they shall cause him to recite the case before them, so that they may order and consider among themselves how it may be better and more justly proceeded in as they shall be willing to answer before God for the King's person and their own persons, and for the persons of those whom they represent; and they shall report their answers and advice in writing, that all their answers, counsel, and advice being heard on all sides, it may be proceeded in according to the best and soundest counsel, and where at least the major part of Parliament agrees. And if by disagreement between them and the King and any nobles, or perchance between the nobles themselves, the peace of the kingdom be disturbed, or the people or country troubled, so that it seem to the King and his council that it be expedient that this business be treated of and amended by the consideration of all the peers of his kingdom; or if the King and kingdom be troubled by war, or if a difficult case arise before the chancellor of England, or a difficult judgment be to be rendered before the justices, in such like cases, and if perchance in such like deliberations all or at least the greater part cannot agree, then the earl steward, the earl constable, and the earl marshal, or two

parte regis, si Rex non intersit, cuilibet graduum parium quòd quilibet gradus adeat per se, et liberetur casus ille clerico suo in scripto[1], et in certo[2] loco recitare faciant coram eis casum illum; ita quòd ipsi ordinent et considerent inter[3] se qualiter melius et justius procedi poterit in casu illo[4], sicut ipsi pro personâ regis et eorum propriis personis, ac etiam pro personis eorum quorum personas ipsi representant, velint coram Deo respondere, et suas responsiones et avisamenta reportent in scriptis, ut omnibus eorum responsionibus, consiliis et avisamentis hinc inde auditis, secundum melius et sanius consilium procedatur, et ubi saltem major pars Parliamenti concordet. Et[5] si per discordiam inter eos et regem et aliquos magnates, vel fortè inter ipsos magnates, pax regni infirmetur, vel populus vel patria tribuletur, ita quòd videtur regi et ejus consilio quòd expediens sit quòd negotium illud tractetur et emendetur per considerationem omnium parium regni sui, vel si per guerram rex et regnum tribulentur, vel si casus difficilis coram cancellario Angliæ emergat, seu judicium difficile coram justiciariis fuerit reddendum, et hujusmodi, et si fortè in hujusmodi deliberationibus omnes vel saltem major pars concordare non valeant, tunc comes senescallus, comes constabularius, comes marescallus[6], vel duo

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[1] *scripto;* some MSS. read *scriptis.*
[2] *certo;* some MSS. read *tertio.*
[3] *inter;* some MSS. read *coram.*
[4] *in casu illo;* some MSS. read *in causa illa.*
[5] *Et;* some MSS. read *ut.*
[6] *comes marescallus;* some MSS. read *et comes marescallus.*

of them, shall elect twenty-five persons out of all the peers of the realm, that is, two bishops and three procurators for the whole clergy; two earls and three barons, five knights of shires, five citizens, and [five[1]] burgesses, which make twenty-five; and these twenty-five may select twelve from among themselves, and reduce themselves to that number, and these twelve may reduce themselves to six, and those six may still further reduce themselves to three, but those three cannot reduce themselves to a less number unless licence be obtained from our lord the King; and should the King give his consent, then those three may reduce themselves to two, and one of those two may delegate his power to the other, and thus, finally, his ordinance will stand superior in authority to the whole Parliament; and so by reduction from twenty-five persons to one individual person, unless the greater number be able to come to agreement and give judgment; in fine, one single individual, as it is said, who cannot disagree with himself, shall ordain for all; reserving to our lord the King and his council the power of examining and amending such ordinances after they have been written, if they know how and wish so to do, so that it be there then done in full Parliament, and with the consent of Parliament, and not otherwise.

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[1] The context requires that there shall be five citizens and five burgesses to make up the number of twenty-five. The whole paragraph however is very obscure, but the sense seems that the members have power to reduce their numbers and delegate their power to such reduction. "Conde-"scendere" implies yielding to the decision of the diminished party, and this appears from a single person at last having the power of the whole twenty-five.

eorum eligent viginti quinque personas de omnibus paribus regni, scilicet duos episcopos, et tres procuratores, pro toto clero,—duos comites et tres barones, quinque milites comitatuum, quinque cives et burgenses,—qui faciunt viginti quinque; et illi viginti quinque possunt eligere ex seipsis duodecim et condescendere in eis, et ipsi duodecim sex et condescendere in eis, et ipsi sex adhuc tres et condescendere in eis, et illi tres in paucioribus condescendere non possunt, nisi optentâ licentiâ à domino rege, et si rex consentiat, illi[1] tres possunt in duos, et de illis duobus alter potest in alium descendere; et ita demum stabit sua ordinatio supra totum Parliamentum; et ita condescendendo à viginti quinque personis usque ad unam personam solam, nisi numerus major concordare valeat et ordinare, tandem sola persona, ut est dictum, pro omnibus ordinabit[2], quæ cum se ipsâ discordare non potest; salvo domino regi et ejus concilio quòd ipsi hujusmodi ordinationes postquam scriptæ fuerint examinare et emendare valeant, si hoc facere sciant et velint, ita quòd hoc ibidem tunc fiat[3] in pleno Parliamento, et de consensu Parliamenti, et non retro Parliamentum.

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[1] *illi;* some MSS. read *in.*
[2] *ordinabit;* some MSS. read *ordinavit.*
[3] *fiat;* some MSS. omit *fiat,* but in others it occurs after *Parliamentum.*

Concerning the Business of the Parliament.

The business for which the Parliament is held ought to be deliberated on according to the calendar of Parliament, and according to the order of petitions delivered and filed, without respect of persons, but who first proposes shall first act. In the calendar of Parliament all business of the Parliament ought to be regarded in the following order: first, concerning war, if there be war, and other affairs touching the persons of the King and Queen and their children; secondly, concerning the common affairs of the kingdom, such as making laws against the defects of original laws, judicial and executorial, after judgments rendered, which are chiefly common affairs; thirdly, private business ought to be regarded, and this according to the order of the filing of petitions as is aforesaid.

Concerning the Days and Hours of Parliament.

The Parliament ought not to be holden on Sundays, but it may be held on all other days, that day always excepted and three others, to wit, All Saints, All Souls, and the Nativity of Saint John the Baptist; and it ought to begin at midprime on each day, at which hour the King is bound to be present at the Parliament, and

De Negotiis Parliamenti.

Negotia pro quibus Parliamentum summonitum[1] est debent deliberari secundum kalendarium Parliamenti, et secundum ordinem petitionum liberatarum, et affilatarum, nullo habito respectu ad quorumcumque personas, sed qui prius proposuit prius agat. In kalendario Parliamenti rememorari debent omnia negotia Parliamenti sub isto ordine; primò de guerrâ si guerra sit, et de aliis negotiis personas regis[2], reginæ, et suorum liberorum tangentibus; secundò de negotiis communibus regni, ut[3] de legibus statuendis contra defectus legum originalium, judicialium, et executoriarum, post judicia reddita quæ sunt maximè communia negotia[4]; terciò debent rememorari negotia singularia, et hoc secundum ordinem filatarum[5] petitionum, ut prædictum est.

De Diebus et Horis ad Parliamentum.

Parliamentum non debet teneri diebus dominicis, sed cunctis aliis diebus, illo die semper excepto, aliisque[6] tribus, scilicet Omnium Sanctorum, et Animarum, et Nativitatis Sancti Johannis Baptistæ, potest teneri; et debet singulis diebus inchoari horâ mediâ primâ, quâ horâ rex tenetur Parliamentum interesse, et

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[1] *summonitum;* omitted in some MSS.

[2] *regis;* some MSS. read *regis et.*

[3] *ut;* some MSS. read *et.*

[4] *maximè communia negotia;* some MSS. read *maxima negotia,* and others end the paragraph here, omitting all from *tercio* to *ut prædictum est.*

[5] *filatarum;* some MSS. read *filaciorum.*

[6] *aliisque;* some MSS. read *et aliis.*

all the peers of the Realm; and the Parliament ought to be held in a public and not in a private or obscure place; on festival days the Parliament ought to begin at prime hour on account of divine service.

Concerning the Degrees of the Peers.

The King is the head, beginning, and end of Parliament, and so he has no peer in his degree, and so the first degree consists of the King alone; the second degree is of the archbishops, bishops, abbots, priors holding by barony; the third degree is of the procurators of the clergy; the fourth of the earls, barons, and other magnates and nobles, holding to the value of a county or barony, as is aforesaid under the head of the laity; the fifth is of the knights of shires; the sixth of the citizens and burgesses. And so Parliament is composed of six degrees. But it must be known that although any of the said degrees, below the King, be absent, if they have been summoned by reasonable summonses of Parliament, the Parliament shall nevertheless be considered complete.

omnes pares Regni; et Parliamentum debet teneri in loco publico, et non in privato, nec in occulto loco[1]: in diebus festivis Parliamentum debet inchoari horâ primâ propter divinum servitium.

De Gradibus Parium.[2]

Rex est caput, principium, et finis Parliamenti, et ita non habet parem in suo gradu, et ita ex rege solo est primus gradus; secundus gradus est ex archiepiscopis, episcopis, abbatibus, prioribus, per baroniam tenentibus; tertius gradus est de procuratoribus cleri; quartus de comitibus, baronibus et aliis magnatibus et proceribus, tenentibus ad valentiam comitatus et baroniæ, sicut prædictum est in titulo de laicis; quintus est de militibus comitatuum; sextus de civibus et burgensibus: et ita est Parliamentum ex sex gradibus. Sed sciendum est quòd licet aliquis dictorum graduum post regem absentet, dum tamen omnes præmuniti fuerint per rationabiles summonitiones Parliamenti, nihilominus censetur esse plenum.

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[1] *et omnes* to *in occulto loco*. The French and the oldest English MSS. read as follows: "*et omnes pares Parliamenti debent teneri occulto loco;*" but the words in the text, which are found in two MSS., one written in the reign of King Henry the Sixth, and the other about twenty years later, are wanting to perfect the sense.

[2] In some MSS. this section is the last in the Treatise.

Concerning the Mode of the Parliament.

The form having been first shown how, to whom, and at what time the summons of the Parliament ought to be issued, and who ought to come by summons, and who not; it is, secondly, to be related, who they are who, by virtue of their offices, ought to come, and are bound to be present during the whole Parliament, without summons; whence it is to be observed that the two principal clerks of Parliament chosen by the King and his council, and the other secondary clerks, of whom and their offices it will be more particularly treated hereafter[1], and the chief cryer of England with his under cryers, and the chief usher of England, which two offices, viz., of cryer and usher, used to belong to one and the same,—these officers are bound to be present on the first day, the chancellor of England, the treasurer, the chamberlain, and barons of the Exchequer, the justices, all clerks and knights of the King, together with the King's sergeants at pleas, who are of the King's council, are bound to be present on the second day, unless they have reasonable excuses that they cannot be present, and then they ought to send good excuses.

Concerning the Opening of the Parliament.

The Lord the King shall sit in the middle of the larger bench, and is bound to be present at prime, on the sixth day of the Parliament, and the chancellor, treasurer, and barons of the Exchequer,

[1] The section relating to the clerks has already occurred, wherefore it is evident that the sections in the original MSS. were arranged in a different order, and in more modern copies they are so still.

De Modo Parliamenti.[1]

Ostensâ primò formâ qualiter[2] cuilibet et à quanto tempore summonitio Parliamenti fieri debet, et qui venire debent per summonitionem, et qui non; secundò dicendum est qui sunt qui ratione officiorum suorum venire debent, et interesse tenentur per totum Parliamentum, sine summonitione; undè advertendum est quòd duo clerici principales Parliamenti electi per regem et ejus concilium, et alii clerici secundarii de quibus et quorum officiis dicetur specialius pòst, et principalis clamator Angliæ cum subclamatoribus suis, et principalis hostiarius Angliæ, quæ duo officia, scilicet officium clamatoriæ et hostiariæ, solebant ad unum et idem pertinere,—isti officiarii tenentur interesse primo die: cancellarius Angliæ, thesaurarius, camerarius, et barones de scaccario, justiciarii, omnes clerici et milites regis, una cum servientibus regis ad placita, qui sunt de concilio regis, tenentur interesse secundo die, nisi rationabiles excusationes habeant ita quòd interesse non possent, et tunc mittere debent bonas excusationes.

De Inchoatione Parliamenti.

Dominus Rex sedebit in medio majoris banci, et tenetur interesse primo, sexto die Parliamenti: et solebant cancellarius, thesaurarius, barones de scaccario,

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[1] In some MSS. this and several of the subsequent sections precede those treating of the Clerks of Parliament and their offices.

[2] *qualiter cuilibet et à quanto tempore*; some MSS. read "*qualiter quibus* "*et à quanto tempore,*" and others have the addition of *quælibet.*

and justices, are accustomed to record defaults made in Parliament in the following order: on the first day the burgesses and citizens of all England shall be called over, on which day if they do not come, a borough shall be amerced in an hundred marks and a city in an hundred pounds; on the second day the knights of shires of all England shall be called, on which day if they do not come, their county shall be amerced in an hundred pounds; on the third day of the Parliament the barons of the Cinq Ports shall be called, and afterwards the barons, and afterwards the earls, when, if the barons of the Cinq Ports do not come, the barony whence they were sent shall be amerced in an hundred marks; in the same manner a baron by himself shall be amerced in an hundred marks, and an earl in an hundred pounds; in like manner shall be done with those who are peers of earls and barons, to wit, who have lands and rents to the value of a county or a barony, as is aforesaid under the title of summons; on the fourth day the procurators of the clergy shall be called, on which day if they do not come, their bishops shall be amerced in an hundred marks for every archdeaconry making default; on the fifth day the deans, priors, abbots, bishops, and lastly the archbishops, shall be called, who, if they do not come, shall be amerced each archbishop in an hundred pounds, a bishop holding an entire barony an hundred marks, and in

et justiciarii recordare defalta facta in Parliamento sub ordine qui sequitur. Primo die vocabuntur burgenses et cives totius Angliæ, quo die si non veniant, amerciabitur burgus ad centum marcas et civitas ad centum libras: secundo die vocabuntur milites comitatuum totius Angliæ, quo die si non veniant, amerciabitur comitatus unde sunt ad centum libras: tertio die Parliamenti vocabuntur barones Quinque Portuum, et postea barones, et postea comites; unde si barones Quinque Portuum non veniant, amerciabitur baronia illa unde sunt[1] ad centum marcas; eodem modo amerciabitur baro per se ad centum marcas[2], et comes ad centum libras; et[3] eodem modo fiet de illis qui sunt pares comitibus et baronibus, scilicet qui habent terras et redditus ad valorem[4] unius comitatus[5] vel unius baroniæ, ut prædictum est in titulo de summonitione: quarto die vocabuntur procuratores cleri, quo die si non veniant, amerciabuntur episcopi sui pro quolibet archidiaconatu qui defaltam fecerit ad centum marcas: quinto die vocabuntur decani, priores, abbates, episcopi, demum archiepiscopi, qui si non veniant, amerciabitur quilibet archiepiscopus ad centum libras, episcopus[6] tenens integram baroniam ad centum marcas, et eodem

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[1] *unde sunt;* omitted in some MSS.

[2] *eodem modo amerciabitur baro per se ad centum marcas.* Omitted in the French MSS., the Spicilegium, and the earliest English MSS.; but the passage which is necessary to perfect the sense occurs in two MSS. of the fifteenth century.

[3] *et;* omitted in some MSS.

[4] *valorem;* some MSS. read *valentiam.*

[5] *comitatus;* some MSS. read *comitiæ.*

[6] *episcopus;* some MSS. read *et quilibet episcopus.*

like manner with respect to the abbots, priors, and others. On the first day proclamation ought to be made, first in the hall or monastery, or other public place where the Parliament is holden, and afterwards publicly in the town or village, that all who wish to deliver petitions and complaints to the Parliament may deliver them from the first day of the Parliament to the five next following days.

Concerning the preaching before the Parliament.

An archbishop, or bishop, or eminent clerk discreet and eloquent, selected by the archbishop in whose province the Parliament is holden, ought to preach on one of the first five days of the Parliament in full Parliament, and in the presence of the King, and this when the Parliament for the greater part is assembled and congregated, and in his discourse he ought in due order to enjoin the Parliament that they with him should humbly beseech God and implore him for the peace and tranquillity of the King and kingdom, as will be more specially treated of in the following section concerning the declaration to the Parliament.

modo de abbatibus, prioribus, et aliis.[1] Primo die debet fieri proclamatio, primò in aulâ, sive monasterio, seu aliquo loco publico ubi Parliamentum tenetur, et postmodum publicè in civitate vel villâ[2], quòd omnes illi, qui petitiones et querelas liberare velint[3] ad Parliamentum, illas liberent[4] à primo die Parliamenti in quinque dies proximò sequentes.

De Prædicatione ad Parliamentum.

Unus archiepiscopus, vel episcopus vel magnus clericus discretus et facundus, electus[5] per archiepiscopum in cujus provinciâ Parliamentum tenetur, prædicare debet uno istorum primorum quinque dierum Parliamenti in[6] pleno Parliamento et in præsentiâ regis, et hoc quando Parliamentum pro majori parte fuerit adjunctum et congregatum, et in sermone[7] suo consequenter subjungere toti Parliamento quòd ipsi cum eo humiliter Deo supplicent, et ipsum adorent, pro pace et tranquillitate regis et regni, prout specialius dicetur in sequenti titulo de pronuntiatione[8] ad Parliamentum.

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[1] *et aliis*; some MSS. read *etc.*
[2] *villâ*; some MSS. read *villa illa.*
[3] *velint*; some MSS. read *volunt*, and others *voluerint.*
[4] *illas liberent*; some MSS. read *quod illis deliberentur.*
[5] *electus*; some MSS. read *clericus.*
[6] *in pleno Parliamento*; omitted in some MSS.
[7] *sermone.* The French and the earliest English MSS. read *servitio.*
[8] *pronuntiatione*; some MSS. read *prædicatione.*

Concerning the Declaration in Parliament.

After the preaching the chancellor of England, or the chief justice of England, he, to wit, who holds pleas before the King, or some fit, honourable, and eloquent justice or clerk elected by the chancellor and chief justice, ought to declare the causes of the Parliament, first generally, and afterwards specially, standing; and it is to be observed that all in Parliament, whoever they be, while they speak shall stand, except the King, so that all in Parliament may be able to hear him who speaks, and if he speaks obscurely or low he shall speak over again and louder, or another shall speak for him.

Concerning the King's Speech after the Declaration.

The King, after the declaration for the Parliament, ought to entreat the clergy and laity, naming all their degrees, to wit, the archbishops, bishops, abbots, priors, archdeacons, procurators, and others of the clergy, the earls, barons, knights, citizens, burgesses, and other laymen, that they diligently, studiously, and cordially will labour to treat and deliberate on the affairs of Parliament as they shall think and perceive how this may be mostly and chiefly done for the honour of God in the first place, and afterwards for his and their honour and welfare.

De Pronuntiatione in Parliamento.

Post prædicationem debet cancellarius Angliæ vel capitalis justiciarius Angliæ, ille scilicet qui tenet placita coram rege, vel alius idoneus, honestus, et facundus justiciarius, vel clericus, per ipsos cancellarium et capitalem justiciarium electus, pronunciare causas Parliamenti, primo in genere, et postea in specie, stando; et inde[1] sciendum est quòd omnes de Parliamento, quicumque fuerit[2], dum loquitur[3] stabunt, rege excepto, ita quòd omnes de Parliamento audire valeant eum qui loquitur, et si obscurè dicat vel ita bassè[4] loquatur, dicat iterato, et loquatur altius, vel loquatur alius pro eo.

De Loquela Regis post Pronuntiationem.

Rex post pronuntiationem pro Parliamento rogare debet clericos et laicos, nominando omnes eorum gradus, scilicet archiepiscopos, episcopos, abbates, priores, archidiaconos, procuratores, et alios de clero, comites, barones, milites, cives, burgenses, et alios laicos, quòd ipsi diligenter, studiosè et corditer[5] laborent ad pertractandum et deliberandum negotia Parliamenti, prout majus et principalius hoc ad Dei voluntatem primo, et postea ad ejus et eorum honores, et commoda fore intellexerint et sentierint.[6]

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[1] *inde*; some MSS. read *unde*.
[2] *fuerit*; some MSS. read *fuerint*.
[3] *loquitur*; some MSS. read *loquuntur*.
[4] *bassè loquatur*; some MSS. read *lassè loquitur*.
[5] *corditer*; some MSS. read *concorditer*.
[6] *intellexerint et sentierint*; some MSS. read *intelligent et sentient*.

Concerning the King's Absence from Parliament.

The King is bound by all means to be personally present in Parliament, unless hindered by corporal infirmity, and then he can keep his chamber, so that he does not lie out of the manor or at least the town where Parliament is holden, and then he ought to send for twelve of the greater and better persons who are summoned to Parliament, to wit, two bishops, two earls, two barons, two knights of shires, two citizens, and two burgesses to visit his person and testify of his state, and in their presence he ought to commission the archbishop of the province, the steward, and chief justice jointly and severally to begin and continue the Parliament in his name, express mention being made in that commission of the cause of his then absence, which should satisfy and advise the rest of the nobles and magnates of Parliament, together with the evident testimony of their said twelve peers. The reason is, that clamour and murmurs used to be in Parliament on account of the King's absence, because it is a hurtful and dangerous thing for the whole commonalty of Parliament, and also for the realm, when the King is absent from the Parliament, nor ought he nor can he absent himself unless only in the abovesaid case.

De Absentia Regis in Parliamento.

Rex tenetur omni modo personaliter interesse Parliamento, nisi per corporalem ægritudinem detineatur, et tunc potest tenere cameram suam, ita quòd non jaceat[1] extra manerium, vel saltem villam, ubi Parliamentum tenetur, et tunc debet mittere pro duodecim personis de majoribus et melioribus qui summoniti sunt ad Parliamentum, scilicet duobus episcopis, duobus comitibus, duobus baronibus, duobus militibus comitatuum, duobus civibus, et duobus burgensibus, ad videndam personam suam et testificandum statum suum, et in eorum præsentiâ committere debet archiepiscopo loci, senescallo, et capitali justiciario suo, quòd ipsi conjunctim et divisim inchoent et continuent Parliamentum nomine suo, factâ in commissione illâ expressâ mentione adtunc[2] de causâ absentiæ suæ, quæ sufficere debet, et monere cæteros nobiles et magnates de[3] Parliamento, una cum notorio[4] testimonio dictorum duodecim parium suorum; causa est quòd solebat clamor et murmur esse in Parliamento pro absentiâ regis, quia res dampnosa et periculosa est toti communitati Parliamenti et etiam regni, cùm rex à[5] Parliamento absens fuerit, nec se absentare debet nec potest, dumtaxat nisi in casu supradicto.

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[1] *non jaceat;* some MSS. read *nec jacet.*
[2] *adtunc;* some MSS. read *adhuc.*
[3] *de;* some MSS. read *in.*
[4] *notorio testimonio.* The French and the earliest English MSS. read *negotio et testimonio.*
[5] *à;* some read *de.*

Concerning the Place and Sittings in the Parliament.

First, as is aforesaid, the King shall sit in the middle place of the greater bench, and on his right hand shall sit the archbishop of Canterbury, and on his left hand the archbishop of York, and immediately after them the bishops, abbots, and priors in rows, always in such manner among the ranks aforesaid, and their places, that no one sit except among his peers; and the steward of England is bound to attend to this, unless the King appoint another person. At the King's right foot shall sit the chancellor of England and the chief justice of England, and his associates, and their clerks who are of Parliament, and at his left foot shall set the treasurer, chamberlain, and barons of the Exchequer, justices of the bench, and their clerks who are of Parliament.

Concerning the Doorkeeper of the Parliament.

The chief usher of Parliament shall stand within the great door of the monastery, hall, or other place where

De Loco et Sessionibus in Parliamento.

Primò, ut prædictum est, rex sedebit in medio loco majoris banci, et ex parte ejus dextrâ sedebit archiepiscopus Cantuariensis, et ex parte ejus sinistrâ archiepiscopus Eborum, et post illos statim episcopi, abbates et priores linealiter, semper tali modo[1] inter prædictos gradus, et eorum loca, quòd nullus sedeat nisi inter suos pares; et ad hoc tenetur senescallus Angliæ prospicere, nisi rex alium assignaverit[2]: ad pedem Regis[3] dextrum sedebunt cancellarius Angliæ et capitalis justiciarius Angliæ, et socii sui, et eorum clerici qui sunt de Parliamento; et ad pedem ejus sinistrum sedebunt[4] thesaurarius, camerarius, et barones de scaccario, justiciarii de banco, et eorum clerici qui[5] sunt de Parliamento.

De Hostiario Parliamenti.

Hostiarius principalis Parliamenti stabit infra magnum hostium monasterii, aulæ, vel alterius loci ubi

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[1] *sedebit archiepiscopus Cantuariensis, et ex parte ejus sinistrâ archiepiscopus Eborum, et post illos statim episcopi, abbates et priores linealiter semper tali modo.* So in the French and the earliest English MSS., but in some later MSS. it has been altered to the following: "*sedebunt archiepiscopus Cantuariensis episcopi Londoniensis et Win-*" "*toniensis, et post illos seriatim alii episcopi, abbates et priores, et in*" "*parte sinistrâ Regis sedebunt archiepiscopus Eborum, episcopi Dunelm-*" "*ensis et Carliolensis, et post illos seriatim comites, barones, et domini*" "*habita semper tali divisione;*" in some MSS. the words "*episcopi, abbates*" "*et priores linealiter*" occur between "*domini*" and "*habita.*"

[2] *alium assignaverit;* some MSS. read *alium velit ad hoc assignare.*

[3] *Regis;* some MSS. read *ejus.*

[4] *sedebunt;* omitted in some MSS.

[5] *qui; si qui* in some MSS.

the Parliament is holden, and shall keep the door so that no one may enter the Parliament except him who owes suit and appearance at the Parliament, or shall be called on account of the business which he is prosecuting in the Parliament; and it is necessary that the doorkeeper have knowledge of the persons who ought to enter, so that entrance be denied to none who ought to be present at the Parliament; and the doorkeeper may and ought, if necessary, to have many doorkeepers under him.

Concerning the Crier of the Parliament.

The crier of Parliament shall stand without the door of the Parliament, and the doorkeeper shall announce to him what he shall proclaim. The King used to send his serjeants at arms to stand amid the great space without the door of Parliament to keep the door, so that none should make assaults or tumults about the doors by which the Parliament might be disturbed under pain of caption of their bodies, because by right the door of Parliament ought not to be shut, but guarded by the doorkeepers and king's serjeants at arms.

Parliamentum tenetur, et custodiet hostium, ita quòd nullus intret Parliamentum, nisi qui sectam et eventum debeat ad Parliamentum, vel vocatus fuerit propter negotium quod prosequitur in Parliamento, et oportet quòd hostiarius ille habeat cognitionem personarum quæ ingredi debent ita quòd nulli omnino negetur ingressus qui Parliamentum interesse tenetur; et hostiarius ille potest et debet[1], si necessè sit, habere plures hostiarios sub se.[2]

De Clamatore Parliamenti.

Clamator Parliamenti stabit extra hostium Parliamenti, et hostiarius denunciabit sibi clamationes suas; rex solebat mittere[3] servientes suos ad arma ad standum per magnum spatium extra hostium Parliamenti, ad custodiendum hostium, ita quòd nulli impressiones nec tumultus facerent circa hostia[4], per quod Parliamentum impediatur, sub pœnâ captionis corporum suorum, quia de jure hostium Parliamenti non debet claudi, sed per hostiarium[5] et servientes regis ad arma custodiri.

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[1] *ita quòd nulli omnino negetur ingressus qui Parliamentum interesse tenetur; et hostiarius ille potest et debet.* The French and the oldest English MSS. omit this passage.

[2] *hostiarios sub se.* These words are not in the French or the oldest English MSS.

[3] *mittere;* some MSS. read *assignare.*

[4] *hostia;* some MSS. read *hostium.*

[5] *hostiarium;* some MSS. read *hostiarios.*

Concerning the Station of Persons speaking.

All the peers of Parliament shall sit, and no one stand but when he speaks, and he shall so speak that every one in the Parliament may hear him; no one shall enter Parliament, nor go out of the Parliament, except by one door, and whoever speaks any thing that ought to be deliberated on by the Parliament while he speaks he and all who speak shall stand, the reason is, that he may be heard by the peers, because all peers are judges and justices.

Concerning the King's Aid.

The King is not accustomed to ask aid from his kingdom unless for approaching war, or making his sons knights, or marrying his daughters, and then such aids ought to be asked in full Parliament, and delivered in writing to each degree of peers of the Parliament, and answered in writing; and be it known that if such aids are to be granted it is needful that all the peers of the Parliament consent; and be it understood that the two knights who come to the Parliament for a shire have a greater voice in Parliament in agreeing or dissenting than an earl of England who is greater than they are, and in like manner the procurators of the clergy of a single bishopric have a greater voice in Parliament, if they all agree, than the bishop himself, and

De Stationibus Loquentium.

Omnes pares Parliamenti sedebunt, et nullus stabit sed quando[1] loquitur, et loquetur ita quòd quilibet de Parliamento eum audire valeat; nullus intrabit in[2] Parliamentum, nec exiet de Parliamento, nisi per unum[3] hostium, et quicumque[4] loquitur rem aliquam quæ deliberari debet per Parliamentum, stabunt omnes loquentes; causa est ut audiatur à paribus, quia omnes pares sunt judices et justiciarii.

De Auxilio Regis.

Rex non solebat petere auxilium de regno suo nisi pro guerrâ instanti, vel filios suos milites faciendo, vel filias suas maritando, et tunc debent hujusmodi auxilia peti in pleno Parliamento, et in scriptis cuilibet gradui parium Parliamenti liberari, et in scriptis responderi; et sciendum est quòd si[5] hujusmodi auxilia concedenda[6] oportet quòd omnes pares Parliamenti consentiant, et intelligendum est quòd duo milites, qui veniunt ad Parliamentum pro comitatu[7], majorem vocem habent in Parliamento in concedendo et contradicendo, quàm major comes Angliæ, et eodem modo procuratores cleri unius episcopatus majorem vocem habent in Parliamento, si omnes sint concordes, quàm episcopus ipse, et

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[1] *sed quando;* some MSS. read *nisi qui.*
[2] *in;* omitted in some MSS.
[3] *unum;* some MSS. read *unicum.*
[4] *quicumque;* some MSS. read *quandocumque.*
[5] *si;*—*ad* in some MSS.
[6] *concedenda;*—*concedenda sunt* in some MSS.
[7] *pro comitatu;*—*pro ipso comitatu* in some MSS.

this in all things which by Parliament ought to be granted, refused, or done. And by this it is evident that the King can hold a Parliament with the commons of his kingdom without bishops, earls, and barons, provided they have been summoned to Parliament, although no bishop, earl, nor baron obey the summons, because formerly there was neither bishop, nor earl, nor baron, yet then Kings held their Parliaments; but still on the other hand, although the commons — the clergy and laity — are summoned to Parliament, as of right they ought to be, and for any cause will not come, as if they pretend that the Lord the King does not govern them as he ought, and assign special cases in which he has not governed them, then there is no Parliament at all, even though the archbishops, bishops, earls, and barons, and all their peers, be present with the King; and therefore it is needful that all things which ought to be affirmed or abrogated, granted or refused, or done by the Parliament ought to be done by the commons of the Parliament which is composed of three degrees or orders of Parliament, to wit, of the procurators of the clergy, the knights of shires, the citizens and burgesses, who represent the whole commons of England, and not by the nobles, because every one of them

hoc in omnibus quæ per[1] Parliamentum concedi, negari vel fieri debent: et hoc patet quòd[2] rex potest tenere Parliamentum cum communitate regni sui, absque episcopis, comitibus et baronibus, dumtamen[3] summoniti sunt ad Parliamentum, licet nullus episcopus, comes vel baro ad summonitiones suas veniant; quia olim nec fuerat episcopus, nec comes, nec baro, adhuc[4] tunc reges tenuerunt Parliamenta sua, sed aliter est econtrà, licet communitates—cleri et laici—summonitæ essent ad Parliamentum, sicut de jure debent, et propter aliquas causas[5] venire nollent, ut[6] si prætenderent quòd dominus[7] rex non regeret eos sicuti deberet, et assignarent specialiter in quibus eos non rexerat[8], tunc Parliamentum nullum[9] esset omnino, licet[10] archiepiscopi, episcopi, comites et barones, et omnes eorum pares, cum rege interessent: et ideo oportet quòd omnia quæ affirmari vel infirmari, concedi vel negari, vel fieri debent per Parliamentum, per communitatem Parliamenti concedi debent, quæ est ex tribus gradibus sive generibus Parliamenti, scilicet ex procuratoribus cleri, militibus comitatuum, civibus et burgensibus, qui repræsentant totam communitatem Angliæ, et non de magnatibus, quia quilibet eorum

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[1] *per;* — *ad* in some MSS.
[2] *quòd;* — *quia* in some MSS.
[3] *dumtamen summoniti sunt;* read in some MSS. *dummodo summoniti sint.*
[4] *adhuc;* in some MSS. *et adhuc.*
[5] *causas;* — *articulas* in some MSS.
[6] *ut;* — *et* in some MSS.
[7] *dominus;* — *dictus* in some MSS.
[8] *non rexerat;* some MSS. read *disrexerat.*
[9] *nullum;* — *non* in some MSS., *illum* in others.
[10] *licet;* — *licet omnes* in some MSS.

is in the Parliament for his own proper person and for none other.

Concerning the breaking up of the Parliament.

The Parliament ought not to separate as long as any petition remain undiscussed, or at least to which the answer is not determined on, and if the King permit the contrary he is perjured; and no single one alone of the peers of the Parliament can or ought to retire from the Parliament without having obtained the permission of the King and all his peers, and this in full Parliament, and of this permission record shall be made in the roll of the Parliament; and if any one of the peers during the Parliament be sick, so that he cannot come to the Parliament, then for three days he shall send excusers to the Parliament, on which day, if he do not come, two of his peers shall be sent to see and testify of his sickness, and if there be any suspicion those two peers shall be sworn that they will speak the truth; and if it be found that he has feigned he shall be amerced as for default, and if he has not feigned then he shall attorn some sufficient person before them to be present at the Parliament for him, nor can any sane person be excused if he be of sane memory.

est pro suâ[1] propriâ personâ ad Parliamentum et pro nullâ aliâ.

De Partitione[2] Parliamenti.

Parliamentum departiri[3] non debet dummodo aliqua petitio pendeat indiscussa, vel, ad minus, ad quam non[4] sit determinata responsio, et si rex contrarium permittat, perjurus est; nullus[5] solus de[6] paribus Parliamenti recedere potest nec debet de Parliamento, nisi optentâ inde licentiâ de rege et omnibus suis paribus et hoc in pleno Parliamento, et quòd de hujusmodi licentiâ fiat rememoratio in rotulo Parliamenti, et si aliquis de paribus, durante Parliamento, infirmaverit, ita quòd ad Parliamentum venire non valeat, tunc per triduum mittat excusatores ad Parliamentum, quo die si[7] non venerit, mittantur ei duo de paribus suis ad videndum et testificandum hujusmodi infirmitatem, et si sit suspicio, jurentur[8] illi duo pares quòd veritatem inde dicent, et si comperiatur quòd finxerat se, amercietur[9] tanquam pro defaltâ, et si non finxerat se, tunc attornet aliquem sufficientem coram eis ad interessendum ad Parliamentum pro se, nec sanus[10] excusari potest si sit sanæ memoriæ.

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[1] *pro suâ;* omitted in some MSS.
[2] *Partitione;* — *petitionibus* in some MSS.
[3] *departiri;* — *dispartiri* in some MSS.
[4] *ad quam non;* — *antequam* in some MSS.
[5] *nullus;* some MSS. read *et nullus.*
[6] *de paribus;* — *de omnibus paribus* in some MSS.
[7] *quo die si;* some MSS. read *quod si.*
[8] *jurentur;* some MSS. read *jurent.*
[9] *amercietur;* — *amerciabitur* in some MSS.
[10] *nec sanus;* — *si voluerit nec ulterius* in some MSS.

The separation of the Parliament used to be in this manner:—it ought first to be asked and publicly proclaimed in the Parliament, and within the palace of the Parliament, if there be any one who shall have delivered a petition to the Parliament to which no answer has yet been given, and if no one shall answer it is to be supposed that remedy has been afforded to every one, or at least been answered as far as can be rightly done, and then, first, to wit, when no one who at that time has exhibited his petition shall answer,—"we will release our Parliament."

Concerning Transcripts of Records in Parliament.

The clerks of the Parliament shall not refuse to any one a copy of his proceeding, but shall deliver it to every one who demands it, and shall always take for ten lines one penny, unless oath be made of inability to pay, in which case they shall take nothing. The rolls of Parliament shall contain ten inches in width. The Parliament shall be holden in whatever place in the kingdom the King shall choose.

Here ends the Mode of holding the Parliament.

Departitio Parliamenti ita usitari debet:—Primitùs[1] peti debet et publicè proclamari in Parliamento, et infra Palacium Parliamenti, si sit aliquis, qui petitionem liberaverit ad Parliamentum, cui nondum sit responsum; quòd si nullus reclamet, supponendum est quòd cuilibet medetur[2], vel saltem quatenus potest de jure respondetur, et tunc primò videlicet[3] cum nullus qui petitionem suam eâ vice exhibuerit reclamet,—Parliamentum nostrum licentiabimus.[4]

De Transcriptis Recordorum in Parliamento.

Clerici Parliamenti non negabunt cuiquam transcriptum processûs sui, sed liberabunt illud cuilibet qui hoc petierit[5], et capient semper pro decem lineis unum denarium, nisi fortè factâ fide de impotentiâ, in quo casu nihil capient. Rotuli de Parliamento continebunt in latitudine decem pollices. Parliamentum tenebitur in quo loco regni regi placuerit.

Explicit Modus tenendi Parliamentum.

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[1] *primitùs;* some MSS. read *punctus*, others *primiter.*
[2] *cuilibet medetur;*—*quilibet metitur* in some MSS.
[3] *videlicet;*—*scilicet* in some MSS.
[4] *Parliamentum nostrum licentiabimus;*—*vestrum* occurs in some MSS. If the whole passage beginning at "*Primitùs*" and ending at "*reclamet*" be read parenthetically, then the sense is obvious, otherwise it is very obscure.
[5] *petierit;*—*fecierit* in some MSS.

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